

1 Laralei Paras, State Bar No. 203319  
2 Brian C. Johnson, State Bar No. 235965  
3 Seven Hills LLP  
4 4 Embarcadero Center, Suite 1400  
5 San Francisco, CA 94111  
6 Telephone: (415) 926-7247  
7 Email: laralei@sevenhillslp.com  
8 Email: brian@sevenhillslp.com

9 Attorneys for Plaintiff  
10 KEEP AMERICA SAFE AND BEAUTIFUL

ELECTRONICALLY  
**FILED**

Superior Court of California,  
County of San Francisco

**06/07/2024**  
Clerk of the Court

BY: JAMES FORONDA  
Deputy Clerk

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN FRANCISCO – UNLIMITED CIVIL JURISDICTION

13 KEEP AMERICA SAFE AND BEAUTIFUL,

14 Plaintiff,

15 v.

16 JEFFREE STAR COSMETICS, INC.; and DOES  
17 1-30, inclusive,

18 Defendants.

Case No.

**CGC-24-615280**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

Violation of Proposition 65, The Safe Drinking  
Water and Toxic Enforcement Act of 1986  
(Health & Safety Code § 25249.5 *et seq.*)

UNLIMITED CIVIL

19 Plaintiff KEEP AMERICA SAFE AND BEAUTIFUL, acting in the public interest, alleges a  
20 cause of action against Defendants JEFFREE STAR COSMETICS, INC., and DOES 1-30.

**INTRODUCTION AND NATURE OF THE ACTION**

21 1. This Complaint is a representative action brought by plaintiff Keep America Safe and  
22 Beautiful (“**KASB**”) in the public interest of the citizens of the State of California to enforce the  
23 People’s right to be informed of the health hazards caused by exposures to diisononyl phthalate  
24 (“**DINP**”), a toxic chemical found in and on the bags with vinyl/PVC components manufactured,  
25 imported, distributed, sold or offered for sale by Defendants in the State of California.

26 2. By this Complaint, plaintiff seeks to remedy Defendants’ continuing failure to warn  
27 individuals not covered by California’s Occupational Safety Health Act, Labor Code § 6300 *et seq.*  
28 (“**consumers**”) they are being exposed to substances known to the State of California to cause cancer  
through exposures to DINP, when they use or handle Defendants’ bags with Vinyl/PVC components.

1           3.         Detectable levels of DINP are found in and on the bags with vinyl/PVC components  
2 Defendants manufacture, import, sell or distribute for sale to consumers throughout California.

3           4.         Pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
4 Health and Safety Code § 25249.6 *et seq.* (“**Proposition 65**”), it is unlawful for a person in the course  
5 of doing business to knowingly and intentionally expose consumers in California to chemicals known  
6 to the State to cause cancer, birth defects or other reproductive harm, without first providing a “clear  
7 and reasonable” health hazard warning to such consumers prior to purchase or use.

8           5.         KASB contends and alleges Defendants manufacture, distribute, import, sell, and  
9 offer for sale, in and into California bags with vinyl/PVC components (“**PRODUCTS**”) containing  
10 DINP, without Proposition 65’s requisite health hazard warning regarding the harms associated with  
11 exposures to the chemical, including, but not limited to *Travel Skincare Bag UPC: 8 40157 90806 0*.  
12 Defendants’ conduct subjects them to civil penalties for each violation, enjoinder as well as  
13 preliminary and permanent injunctive relief. Health & Saf. Code § 25249.7(a) and (b).

#### 14                                   **PARTIES**

15           6.         Plaintiff KASB is a non-profit corporation organized under the laws of California and  
16 acting in the public interest to protect the health of California citizens through the reduction of toxic  
17 chemicals in consumer products and by increasing public awareness of those chemicals. KASB is a  
18 person within the meaning of Health & Safety Code § 25249.11(a), and it brings this action in the  
19 public interest, pursuant to Health and Safety Code § 25249.7(d).

20           7.         Plaintiff is informed, believes, and thereon alleges, at all relevant times, Defendant  
21 JEFFREE STAR COSMETICS, INC. (“**JEFFREE STAR COSMETICS**”) was and is a “person”  
22 “in the course of doing business” with ten (10) or more employees, within the meanings of Health  
23 and Safety Code §§ 25249.6 and 25249.11.

24           8.         JEFFREE STAR COSMETICS manufactures, imports, distributes, sells, and/or offers  
25 the PRODUCTS for sale or use in the State of California, or implies by its conduct that it  
26 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the State of  
27 California.

1           9. Defendants DOES 1-10 (“MANUFACTURER DEFENDANTS”) are each a person in  
2 the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.  
3 MANUFACTURER DEFENDANTS, and each of them, assemble, fabricate, and manufacture, or  
4 each implies by its conduct that it does so for one or more of the PRODUCTS offered for sale or use  
5 in California.

6           10. Defendants DOES 11-20 (“**DISTRIBUTOR DEFENDANTS**”) are each a person in  
7 the course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.  
8 DISTRIBUTOR DEFENDANTS, and each of them, distribute, transfer, and transport, or each  
9 impliedly does so by its conduct, one or more of the PRODUCTS to individuals, businesses, or  
10 retailers for sale or use in the State of California

11           11. Defendants DOES 21-30 (“**RETAILER DEFENDANTS**”) are each a person in the  
12 course of doing business within the meaning of Health and Safety Code §§ 25249.6 and 25249.11.  
13 RETAILER DEFENDANTS, and each of them, by and through their conduct, offer the PRODUCTS  
14 for sale to consumers in the State of California.

15           12. At this time, the true names of Defendants DOES 1 through 30, inclusive, are  
16 unknown to plaintiff, who, therefore, sues said DOES Defendants by their fictitious names, pursuant  
17 to Code of Civil Procedure § 474. Plaintiff is informed and believes, and on that basis alleges, each of  
18 the fictitiously named Defendants is responsible in some manner for the acts and occurrences alleged  
19 herein and the damages caused thereby. When ascertained, their true names and capacities shall be  
20 reflected in an amended complaint.

21           13. At all times mentioned herein, JEFFREE STAR COSMETICS, MANUFACTURER  
22 DEFENDANTS, DISTRIBUTOR DEFENDANTS, and RETAILER DEFENDANTS shall,  
23 hereinafter, where appropriate, be referred to collectively as the “**DEFENDANTS.**”

#### **JURISDICTION AND VENUE**

24  
25           14. This Court has jurisdiction over this action, pursuant to Health & Safety Code  
26 § 25249.7, allowing enforcement by any court of competent jurisdiction. The California Superior  
27 Court has jurisdiction over this action, pursuant to California Constitution Article VI, section 10,  
28 which grants the Superior Court “original jurisdiction in all causes except those given by statute to

1 other trial courts.” The statute under which this action is brought does not specify any other basis of  
2 subject matter jurisdiction.

3 15. The California Superior Court has jurisdiction over DEFENDANTS, based on  
4 plaintiff’s information and good faith belief DEFENDANTS are each a person, firm, corporation or  
5 association that is a citizen of the State of California, does sufficient business in California, has  
6 sufficient minimum contacts in California, and/or otherwise purposefully and intentionally avail  
7 themselves of the California market through their manufacture, importation, distribution, promotion,  
8 marketing or sale of PRODUCTS within the State. DEFENDANTS’ purposeful availment renders the  
9 exercise of personal jurisdiction by California courts consistent with traditional notions of fair play  
10 and substantial justice.

11 16. Venue is proper in the Superior Court for the County of San Francisco, pursuant to  
12 Code of Civil Procedure §§ 393, 395, and 395.5, because this Court is a court of competent  
13 jurisdiction, because plaintiff seeks civil penalties against DEFENDANTS, because one or more  
14 instances of wrongful conduct occurred, and continue to occur, in this county, and/or because  
15 DEFENDANTS conducted, and continue to conduct, business in the County of San Francisco with  
16 respect to the PRODUCTS that are the subject of this action.

17 **REGULATORY BACKGROUND AND LAW**

18 17. Formally known as the Safe Drinking Water and Toxic Enforcement Act of 1986 and  
19 codified at Health & Safety Code § 25249.6 *et seq.*, Proposition 65 states, in relevant part, “[n]o  
20 person in the course of doing business shall knowingly and intentionally expose any individual to a  
21 chemical known to cause cancer or reproductive toxicity without first giving a clear and reasonable  
22 warning to such individual...”

23 18. Under the Act, a “person in the course of doing business” is defined as a business with  
24 ten (10) or more employees. Health & Saf. Code § 25249.11(b). Businesses are prohibited from  
25 exposing consumers to hazardous chemicals without first giving a “clear and reasonable” warning.  
26 Health & Saf. Code § 25249.6.

27 19. Exposing consumers to hazardous chemicals means to cause consumers to ingest,  
28 inhale, contact via body surfaces or otherwise come into contact with a listed chemical. Cal. Code

1 Regs. (“CCR”), tit. 27, § 25102(i). An exposure to a hazardous chemical is defined as one that  
2 “results from a person’s acquisition, purchase, storage, consumption or other reasonably foreseeable  
3 use of a product...” 27 CCR § 25600(h).

4 20. Under Proposition 65, persons violating the statute may be enjoined in any court of  
5 competent jurisdiction and may be subject to civil penalties of up to \$2,500 per day, per violation.  
6 Health & Saf. Code § 25249.7.

7 21. On December 20, 2013, pursuant to Proposition 65’s implementing regulations,  
8 California identified and listed DINP as a chemical known to the State to cause cancer. DINP became  
9 subject to the “clear and reasonable warning” requirements one year later, on December 20, 2014. 27  
10 CCR § 27001(c); Health & Saf. Code §§ 25249.8, 25249.10(b).

11 **STATEMENT OF FACTS**

12 22. DEFENDANTS’ PRODUCTS were sold in California without a clear and reasonable  
13 warning in violation of title 27, California Code of Regulations, section 25600, et seq.

14 23. DEFENDANTS’ PRODUCTS subject consumers in California to exposure to the  
15 listed chemical at levels requiring a warning under the statute, based on touching, handling, or  
16 otherwise utilizing PRODUCTS in accordance with their reasonably foreseeable and intended usages.

17 24. September 6, 2023, plaintiff served a 60-Day Notice of Violation (“Notice”), together  
18 with the certificate of merit, on JEFFREE STAR COSMETICS, the California Attorney General’s  
19 Office, and the requisite public enforcement agencies, alleging, as a result of DEFENDANTS’ sales  
20 of the PRODUCTS, consumers in the State of California were, and are, being exposed to DINP  
21 through their reasonably foreseeable use of the PRODUCTS as intended without first receiving a  
22 “clear and reasonable warning,” as required by Proposition 65.

23 25. After receiving plaintiff’s Notice, no public enforcement agency has commenced and  
24 is diligently prosecuting a cause of action against DEFENDANTS under Proposition 65 to enforce  
25 the alleged violations that are the subject of the Notice.

1 **FIRST CAUSE OF ACTION**

2 **(Violation of Proposition 65 - Against All DEFENDANTS)**

3 26. KASB realleges and incorporates by reference, as if fully stated herein, the allegations  
4 set forth in Paragraphs 1 through 25, inclusive.

5 27. DEFENDANTS' PRODUCTS contain DINP in levels requiring a clear and reasonable  
6 warning under Proposition 65.

7 28. DEFENDANTS know or should have known the PRODUCTS they manufacture,  
8 import, distribute, sell, and offer for sale in California contain DINP. As a result of plaintiff's Notice,  
9 DEFENDANTS also have actual knowledge of the presence of DINP in the PRODUCTS.

10 29. The PRODUCTS DEFENDANTS manufacture, import, distribute, sell, and offer for  
11 sale in or into the State of California cause exposures to DINP, both direct and/or indirect dermal  
12 contact and ingestion, through the reasonably foreseeable use of the PRODUCTS.

13 30. The normal and reasonably foreseeable use of the PRODUCTS has caused, and  
14 continues to cause, exposures to DINP.

15 31. DEFENDANTS know the normal and reasonably foreseeable use of the PRODUCTS  
16 exposes consumers to DINP through direct and indirect dermal contact and/or ingestion.

17 32. DEFENDANTS intend that exposures to DINP from the reasonably foreseeable use of  
18 the PRODUCTS will occur by their deliberate, non-accidental participation in the California  
19 marketplace.

20 33. The exposures to DINP, caused by DEFENDANTS and endured by consumers in  
21 California, are not exempt from the "clear and reasonable" warning requirements of Proposition 65.

22 34. DEFENDANTS failed to provide a "clear and reasonable warning" to those consumers  
23 in California who have been, or who will be, exposed to DINP through direct and indirect dermal  
24 contact and/or ingestion resulting from the use of the PRODUCTS as intended.

25 35. Contrary to the express policy and statutory prohibition of Proposition 65, consumers,  
26 exposed to DINP through dermal contact and ingestion as a result of their use of the PRODUCTS that  
27 DEFENDANTS sold without a "clear and reasonable" health hazard warning, have suffered, and  
28 continue to suffer, irreparable harm for which they have no plain, speedy, or adequate remedy at law.

1 36. DEFENDANTS manufacture, import, distribute, sell, and offer the PRODUCTS for  
2 sale or use in violation of Health and Safety Code § 25249.6, and DEFENDANTS' violations have  
3 continued beyond their receipt of plaintiff's Notice. As such, DEFENDANTS' violations are ongoing  
4 and continuous in nature and, unless enjoined, will continue in the future.

5 37. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above-  
6 described acts, DEFENDANTS, and each of them, are liable for a maximum civil penalty of \$2,500  
7 per day for each violation.

8 **PRAYER FOR RELIEF**

9 Wherefore, KASB prays for relief and judgment against DEFENDANTS, and each of them,  
10 as follows:

11 1. That the Court, pursuant to Health and Safety Code § 25249.7(a), preliminarily and  
12 permanently enjoin DEFENDANTS from manufacturing, distributing, importing, marketing or  
13 otherwise offering the PRODUCTS for sale or use in California without first providing a "clear and  
14 reasonable warning" to consumers addressing the harms associated with exposures to DINP;

15 2. That the Court, pursuant to Health and Safety Code § 25249.7(a), issue preliminary  
16 and permanent injunctions mandating DEFENDANTS recall all PRODUCTS currently in the chain  
17 of commerce in California that do not bear a clear and reasonable health hazard warning;

18 3. That the Court assess civil penalties against DEFENDANTS, and each of them, in the  
19 amount of \$2,500 per day for each violation of Proposition 65, in an amount to be determined at trial;

20 4. That the Court award plaintiff its reasonable attorneys' fees and costs of suit, incurred  
21 herein; and

22 5. That the Court grant any further relief as it deems just and equitable.

23 Dated: June 7, 2024

Respectfully submitted,

SEVEN HILLS LLP

24  
25  
26  
27 By:  \_\_\_\_\_

Laralei Paras

Attorneys for Plaintiff

*Keep America Safe and Beautiful*